

## [STAFF WORKING DRAFT]

JANUARY 4, 2007

110TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To require the establishment of a corporate average fuel economy standard for passenger automobiles of 40 miles per gallon by 2017, and for other purposes.

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### IN THE SENATE OF THE UNITED STATES

JANUARY —, 2007

Mr. STEVENS (for himself, Mr. \_\_\_\_\_, and Mr. \_\_\_\_\_) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## A BILL

To require the establishment of a corporate average fuel economy standard for passenger automobiles of 40 miles per gallon by 2017, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Improved Passenger Automobile Fuel Economy Act of  
4 2007”.

5 (b) TABLE OF CONTENTS.—The table of contents for  
6 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—40 MPG STANDARD BY 2017**

Sec. 101. Cafe standards for passenger automobiles.

Sec. 102. Fuel economy standard credits.

Sec. 103. Authorization of appropriations.

Sec. 104. Effective date.

**TITLE II—MARKET—BASED INITIATIVES FOR GREENHOUSE GAS  
REDUCTION**

Sec. 201. Market-based initiatives.

Sec. 202. Implementing panel.

Sec. 203. Definitions.

7 **TITLE I—40 MPG STANDARD BY**  
8 **2017**

9 **SEC. 101. CAFE STANDARDS FOR PASSENGER AUTO-**  
10 **MOBILES.**

11 (a) AVERAGE FUEL ECONOMY STANDARDS FOR  
12 AUTOMOBILES.—Section 32902 of title 49, United States  
13 Code, is amended—

14 (1) by striking subsections (b) and (c) and in-  
15 serting the following:

16 “(b) PASSENGER AUTOMOBILES.—

17 “(1) IN GENERAL.—At least 18 months before  
18 the beginning of each model year, the Secretary of  
19 Transportation shall prescribe by regulation average

1 fuel economy standards for passenger automobiles  
2 manufactured by a manufacturer in that model year.  
3 Each standard shall be the maximum feasible aver-  
4 age fuel economy level that the Secretary decides the  
5 manufacturers can achieve in that model year. The  
6 Secretary may prescribe separate standards for dif-  
7 ferent classes of passenger automobiles.

8 “(2) MINIMUM STANDARD.—Except as provided  
9 in paragraph (3), in prescribing a standard under  
10 paragraph (1), the Secretary shall ensure that no  
11 manufacturer’s standard for a particular model year  
12 is less than the greater of—

13 “(A) the standard in effect on the date of  
14 enactment of the Improved Passenger Auto-  
15 mobile Fuel Economy Act of 2007; or

16 “(B) a standard established in accordance  
17 with the requirement of section 104(c)(2) of  
18 that Act.

19 “(3) 40 MILES PER GALLON STANDARD FOR  
20 MODEL YEAR 2017.—The Secretary shall prescribe  
21 an average fuel economy standard for passenger  
22 automobiles manufactured by a manufacturer in  
23 model year 2017 of 40 miles per gallon. If the Sec-  
24 retary determines that more than 1 manufacturer is  
25 not reasonably expected to achieve that standard,

1 the Secretary shall notify the Senate Committee on  
2 Commerce, Science, and Transportation and the  
3 House of Representatives Committee on Energy and  
4 Commerce of that determination.

5 “(c) FLEXIBILITY OF AUTHORITY.—

6 “(1) IN GENERAL.—The authority of the Sec-  
7 retary to prescribe by regulation average fuel econ-  
8 omy standards for automobiles under this section in-  
9 cludes the authority to prescribe standards based on  
10 one or more vehicle attributes that relate to fuel  
11 economy, and to express the standards in the form  
12 of a mathematical function. The Secretary may issue  
13 a regulation prescribing standards for one or more  
14 model years.

15 “(2) REQUIRED LEAD-TIME.—When the Sec-  
16 retary prescribes an amendment to a standard under  
17 this section that makes an average fuel economy  
18 standard more stringent, the Secretary shall pre-  
19 scribe the amendment at least 18 months before the  
20 beginning of the model year to which the amend-  
21 ment applies.

22 “(3) NO ACROSS-THE-BOARD INCREASES.—  
23 When the Secretary prescribes a standard, or pre-  
24 scribes an amendment under this section that  
25 changes a standard, the standard may not be ex-

1 pressed as a uniform percentage increase from the  
2 fuel-economy performance of automobile classes or  
3 categories already achieved in a model year by a  
4 manufacturer.”;

5 (2) by inserting “motor vehicle safety, emis-  
6 sions,” in subsection (f) after “economy,”;

7 (3) by striking “energy.” in subsection (f) and  
8 inserting “energy and reduce its dependence on oil  
9 for transportation.”;

10 (4) by striking subsection (j) and inserting the  
11 following:

12 “(j) NOTICE OF FINAL RULE.—Before taking final  
13 action on a standard or an exemption from a standard  
14 under this section, the Secretary of Transportation shall  
15 notify the Secretary of Energy and the Administrator of  
16 the Environmental Protection Agency and provide them  
17 a reasonable time to comment on the standard or exemp-  
18 tion.”; and

19 (5) by adding at the end thereof the following:

20 “(k) COSTS–BENEFITS.—The Secretary of Transpor-  
21 tation may not prescribe an average fuel economy stand-  
22 ard under this section that imposes marginal costs that  
23 exceed marginal benefits, as determined at the time any  
24 change in the standard is promulgated.”.

1 (b) EXEMPTION CRITERIA.—The first sentence of  
2 section 32904(b)(6)(B) of title 49, United States Code,  
3 is amended—

4 (1) by striking “exemption would result in re-  
5 duced” and inserting “manufacturer requesting the  
6 exemption will transfer”;

7 (2) by striking “in the United States” and in-  
8 serting “from the United States”; and

9 (3) by inserting “because of the grant of the ex-  
10 emption” after “manufacturing”.

11 (c) CONFORMING AMENDMENTS.—

12 (1) Section 32902 of title 49, United States  
13 Code, is amended—

14 (A) by striking “or (c)” in subsection  
15 (d)(1);

16 (B) by striking “(c),” in subsection (e)(2);

17 (C) by striking “subsection (a) or (d)”  
18 each place it appears in subsection (g)(1) and  
19 inserting “subsection (a), (b), or (d)”;

20 (D) by striking “(1) The” in subsection  
21 (g)(1) and inserting “The”;

22 (E) by striking subsection (g)(2); and

23 (F) by striking “(c),” in subsection (h)  
24 and inserting “(b),”.

1           (2) Section 32903 of such title is amended by  
2       striking “section 32902(b)–(d)” each place it ap-  
3       pears and inserting “subsection (b) or (d) of section  
4       32902”.

5           (3) Section 32904(a)(1)(B) of such title is  
6       amended by striking “section 32902(b)–(d)” and in-  
7       serting “subsection (b) or (d) of section 32902”.

8           (4) The first sentence of section 32909(b) of  
9       such title is amended to read “The petition must be  
10      filed not later than 59 days after the regulation is  
11      prescribed.”.

12          (5) Section 32917(b)(1)(B) of such title is  
13      amended by striking “or (c)”.

14   **SEC. 102. FUEL ECONOMY STANDARD CREDITS.**

15      (a) IN GENERAL.—Section 32903 of title 49, United  
16   States Code, is amended by striking the second sentence  
17   of subsection (a) and inserting “The credits—

18          “(1) may be applied to any of the 3 model years  
19      immediately following the model year for which the  
20      credits are earned; or

21          “(2) transferred to the registry established  
22      under section 201 of the Improved Passenger Auto-  
23      mobile Fuel Economy Act of 2007.”.

1 (b) GREENHOUSE GAS CREDITS APPLIED TO CAFE  
2 STANDARDS.—Section 32903 of title 49, United States  
3 Code, is amended by adding at the end the following:

4 “(g) GREENHOUSE GAS CREDITS.—

5 “(1) IN GENERAL.—A manufacturer may apply  
6 credits purchased through the registry established by  
7 section 201 of the Improved Passenger Automobile  
8 Fuel Economy Act of 2007 toward any model year  
9 after model year 2010 under subsection (d), sub-  
10 section (e), or both.

11 “(2) LIMITATION.—A manufacturer may not  
12 use credits purchased through the registry to offset  
13 more than 10 percent of the fuel economy standard  
14 applicable to any model year.”.

15 **SEC. 103. AUTHORIZATION OF APPROPRIATIONS.**

16 There are authorized to be appropriated to the Sec-  
17 retary of Transportation such sums as may be necessary  
18 to carry out this title and chapter 329 of title 49, United  
19 States Code, as amended by this title.

20 **SEC. 104. EFFECTIVE DATE.**

21 (a) IN GENERAL.—Except as provided in subsection  
22 (b), this title, and the amendments made by this title, take  
23 effect on the date of enactment of this Act.

24 (b) TRANSITION FOR PASSENGER AUTOMOBILE  
25 STANDARD.—Notwithstanding subsection (a), and except



1 as provided in subsection (c)(2), until the effective date  
2 of a standard for passenger automobiles that is issued  
3 under the authority of section 32902(b) of title 49, United  
4 States Code, as amended by this Act, the standard or  
5 standards in place for passenger automobiles under the  
6 authority of section 32902 of that title, as that section  
7 was in effect on the day before the date of enactment of  
8 this Act, shall remain in effect.

9 (c) RULEMAKING.—

10 (1) INITIATION OF RULEMAKING UNDER  
11 AMENDED LAW.—Within 60 days after the date of  
12 enactment of this Act, the Secretary of Transpor-  
13 tation shall initiate a rulemaking for passenger auto-  
14 mobiles under section 32902(b) of title 49, United  
15 States Code, as amended by this Act.

16 (2) AMENDMENT OF EXISTING STANDARD.—  
17 Until the Secretary issues a final rule pursuant to  
18 the rulemaking initiated in accordance with para-  
19 graph (1), the Secretary shall amend the average  
20 fuel economy standard prescribed pursuant to sec-  
21 tion 32092(b) of title 49, United States Code, with  
22 respect to passenger automobiles in model years to  
23 which the standard adopted by such final rule does  
24 not apply.

1 **TITLE II—MARKET—BASED INI-**  
2 **TIATIVES FOR GREENHOUSE**  
3 **GAS REDUCTION**

4 **SEC. 201. MARKET-BASED INITIATIVES.**

5 (a) ESTABLISHMENT OF REGISTRY FOR VOLUNTARY  
6 TRADING SYSTEMS.—The Secretary of Commerce shall  
7 establish a national registry system for greenhouse gas  
8 trading among industry under which emission reductions  
9 from the applicable baseline are assigned unique identi-  
10 fying numerical codes by the registry. Participation in the  
11 registry is voluntary. Any entity conducting business in  
12 the United States may register its emission results, includ-  
13 ing emissions generated outside of the United States, on  
14 an entity-wide basis with the registry, and may utilize the  
15 services of the registry.

16 (b) PURPOSES.—The purposes of the national reg-  
17 istry are—

18 (1) to encourage voluntary actions to reduce  
19 greenhouse gas emissions and increase energy effi-  
20 ciency, including increasing the fuel economy of pas-  
21 senger automobiles and light trucks and reducing  
22 the reliance by United States markets on petroleum  
23 produced outside the United States used to provide  
24 vehicular fuel;

1           (2) to enable participating entities to record vol-  
2       untary greenhouse gas emissions reductions; in a  
3       consistent format that is supported by third party  
4       verification;

5           (3) to encourage participants involved in exist-  
6       ing partnerships to be able to trade emissions reduc-  
7       tions among partnerships;

8           (4) to further recognize, publicize, and promote  
9       registrants making voluntary and mandatory reduc-  
10      tions;

11          (5) to recruit more participants in the program;  
12      and

13          (6) to help various entities in the nation estab-  
14      lish emissions baselines.

15      (c) FUNCTIONS.—The national registry shall carry  
16      out the following functions:

17          (1) REFERRALS.—Provide referrals to approved  
18      providers for advice on—

19              (A) designing programs to establish emis-  
20              sions baselines and to monitor and track green-  
21              house gas emissions; and

22              (B) establishing emissions reduction goals  
23              based on international best practices for specific  
24              industries and economic sectors.

1           (2) UNIFORM REPORTING FORMAT.—Adopt a  
2           uniform format for reporting emissions baselines  
3           and reductions established through—

4                   (A) the Director of the National Institute  
5                   of Standards and Technology for greenhouse  
6                   gas baselines and reductions generally; and

7                   (B) the Secretary of Transportation for  
8                   credits under section 32903 of title 49, United  
9                   States Code.

10          (3) RECORD MAINTENANCE.—Maintain a  
11          record of all emission baselines and reductions  
12          verified by qualified independent auditors.

13          (4) ENCOURAGE PARTICIPATION.—Encourage  
14          organizations from various sectors to monitor emis-  
15          sions, establish baselines and reduction targets, and  
16          implement efficiency improvement and renewable en-  
17          ergy programs to achieve those targets.

18          (5) PUBLIC AWARENESS.—Recognize, publicize,  
19          and promote participants that—

20                   (A) commit to monitor their emissions and  
21                   set reduction targets;

22                   (B) establish emission baselines; and

23                   (C) report on the amount of progress made  
24                   on their annual emissions.

1 (d) TRANSFER OF REDUCTIONS.—The registry  
2 shall—

3 (1) allow for the transfer of ownership of any  
4 reductions realized in accordance with the program;  
5 and

6 (2) require that the registry be notified of any  
7 such transfer within 30 days after the transfer is ef-  
8 fected.

9 (e) FUTURE CONSIDERATIONS.—Any reductions  
10 achieved under this program shall be credited against any  
11 future mandatory greenhouse gas reductions required by  
12 the government. Final approval of the amount and value  
13 of credits shall be determined by the agency responsible  
14 for the implementation of the mandatory greenhouse gas  
15 emission reduction program, except that credits under sec-  
16 tion 32903 of title 49, United States Code, shall be deter-  
17 mined by the Secretary of Transportation. The Secretary  
18 of Commerce shall by rule establish an appeals process,  
19 that may incorporate an arbitration option, for resolving  
20 any dispute arising out of such a determination made by  
21 that agency.

22 (f) CAFE STANDARDS CREDITS.—The Secretary of  
23 Transportation shall work with the Secretary of Com-  
24 merce and the implementing panel established by section  
25 202 to determine the equivalency of credits earned under

1 section 32903 of title 49, United States Code, for inclu-  
2 sion in the registry. The Secretary shall by rule establish  
3 an appeals process, that may incorporate an arbitration  
4 option, for resolving any dispute arising out of such a de-  
5 termination.

6 **SEC. 202. IMPLEMENTING PANEL.**

7 (a) ESTABLISHMENT.—There is established within  
8 the Department of Commerce an implementing panel.

9 (b) COMPOSITION.—The panel shall consist of—

10 (1) the Secretary of Commerce or the Sec-  
11 retary's designee, who shall serve as Chairperson;

12 (2) the Secretary of Transportation or the Sec-  
13 retary's designee; and

14 (3) 1 expert in the field of greenhouse gas emis-  
15 sions reduction, certification, or trading from each of  
16 the following agencies—

17 (A) the Department of Energy;

18 (B) the Environmental Protection Agency;

19 (C) the Department of Agriculture;

20 (D) the National Aeronautics and Space  
21 Administration;

22 (E) the Department of Commerce; and

23 (F) the Department of Transportation.

24 (c) EXPERTS AND CONSULTANTS.—Any member of  
25 the panel may secure the services of experts and consult-

1 ants in accordance with the provisions of section 3109 of  
2 title 5, United States Code, for greenhouse gas reduction,  
3 certification, and trading experts in the private and non-  
4 profit sectors and may also utilize any grant, contract, co-  
5 operative agreement, or other arrangement authorized by  
6 law to carry out its activities under this subsection.

7 (d) DUTIES.—The panel shall—

8 (1) implement and oversee the implementation  
9 of this section;

10 (2) promulgate—

11 (A) standards for certification of registries  
12 and operation of certified registries; and

13 (B) standards for measurement, verification,  
14 and recording of greenhouse gas emissions and  
15 greenhouse gas emission reductions by certified  
16 registries;

17 (3) maintain, and make available to the public,  
18 a list of certified registries; and

19 (4) issue rulemakings on standards for meas-  
20 uring, verifying, and recording greenhouse gas emis-  
21 sions and greenhouse gas emission reductions pro-  
22 posed to the panel by certified registries, through a  
23 standard process of issuing a proposed rule, taking  
24 public comment for no less than 30 days, then final-  
25 izing regulations to implement this act, which will

1 provide for recognizing new forms of acceptable  
2 greenhouse gas reduction certification procedures.

3 (e) CERTIFICATION AND OPERATION STANDARDS.—

4 The standards promulgated by the panel shall include—

5 (1) standards for ensuring that certified reg-  
6 istries do not have any conflicts of interest, including  
7 standards that prohibit a certified registry from—

8 (A) owning greenhouse gas emission reduc-  
9 tions recorded in any certified registry; or

10 (B) receiving compensation in the form of  
11 a commission where sources receive money for  
12 the total number of tons certified;

13 (2) standards for authorizing certified registries  
14 to enter into agreements with for-profit persons en-  
15 gaged in trading of greenhouse gas emission reduc-  
16 tions, subject to paragraph (1); and

17 (3) such other standards for certification of  
18 registries and operation of certified registries as the  
19 panel determines to be appropriate.

20 (f) MEASUREMENT, VERIFICATION, AND RECORDING

21 STANDARDS.—The standards promulgated by the panel  
22 shall provide for, in the case of certified registries—

23 (1) ensuring that certified registries accurately  
24 measure, verify, and record greenhouse gas emis-



1       sions and greenhouse gas emission reductions, tak-  
2       ing into account—

3               (A) boundary issues such as leakage and  
4               shifted utilization; and

5               (B) such other factors as the panel deter-  
6               mines to be appropriate;

7       (2) ensuring that—

8               (A) certified registries do not double-count  
9               greenhouse gas emission reductions; and

10              (B) if greenhouse gas emission reductions  
11              are recorded in more than 1 certified registry,  
12              such double-recording is clearly indicated;

13       (3) determining the ownership of greenhouse  
14       gas emission reductions and recording and tracking  
15       the transfer of greenhouse gas emission reductions  
16       among entities (such as through assignment of serial  
17       numbers to greenhouse gas emission reductions);

18       (4) measuring the results of the use of carbon  
19       sequestration and carbon recapture technologies;

20       (5) measuring greenhouse gas emission reduc-  
21       tions resulting from improvements in—

22               (A) power plants;

23               (B) automobiles (including types of pas-  
24       senger automobiles and light trucks, as defined

1 in section 32901(a)(16) and (17) respectively,  
2 produced in the same model year);

3 (C) carbon re-capture, storage and seques-  
4 tration, including organic sequestration and  
5 manufactured emissions injection, and or stor-  
6 age.

7 (D) other sources;

8 (6) measuring prevented greenhouse gas emis-  
9 sions through the rulemaking process and based on  
10 the latest scientific data, sampling, expert analysis  
11 related to measurement and projections for pre-  
12 vented greenhouse gas emissions in tons including—

13 (A) organic soil carbon sequestration prac-  
14 tices;

15 (B) forest preservation and re-forestation  
16 activities which adequately address the issues of  
17 permanence, leakage and verification; and

18 (7) such other measurement, verification, and  
19 recording standards as the panel determines to be  
20 appropriate.

21 (g) CERTIFICATION OF REGISTRIES.—Except as pro-  
22 vided in subsection (h), a registrant that desires to be a  
23 certified registry shall submit to the panel an application  
24 that—

1           (1) demonstrates that the registrant meets each  
2       of the certification standards established by the  
3       panel under subsections (d) and (e); and

4           (2) meets such other requirements as the panel  
5       may establish.

6       (h) AUTOMOBILE INDUSTRY.—The Secretary of  
7       Transportation is deemed to be the certified registrant for  
8       credits earned under section 32903 of title 49, United  
9       States Code.

10       (i) ANNUAL REPORT.—Within 1 year after the date  
11       after the date of enactment of this Act and biennially  
12       thereafter, the panel shall report to the Congress on the  
13       status of the program established under this section. The  
14       report shall include an assessment of the level of partici-  
15       pation in the program and amount of progress being made  
16       on emission reduction targets.

17       **SEC. 203. DEFINITIONS.**

18       In this title:

19           (1) GREENHOUSE GAS.—The term “greenhouse  
20       gas” includes—

21               (A) carbon dioxide;

22               (B) methane;

23               (C) hydro fluorocarbons;

24               (D) perfluorocarbons;

25               (E) nitrous oxide; and

1 (F) sulfur hexafluoride.

2 (2) BASELINE.—The term “baseline” means—

3 (A) the greenhouse gas emissions, deter-  
4 mined on an entity-wide basis for the partici-  
5 pant’s most recent previous 3-year annual aver-  
6 age of greenhouse gas emissions prior to the  
7 date of enactment of this Act; or

8 (B) if data is unavailable for that 3-year  
9 period, the greenhouse gas emissions as of Sep-  
10 tember 30, 2004, (or as close to that date as  
11 such emission levels can reasonably be deter-  
12 mined). In promulgating regulations under this  
13 title, the panel shall take into account green-  
14 house gas emission reductions or off-setting ac-  
15 tions taken by any entity before the date on  
16 which the registry is established.

17 (3) CERTIFIED REGISTRY.—The term “certified  
18 registry” means a registry that has been certified by  
19 the panel as meeting the standards promulgated  
20 under section 202(e) and (f) and, for the automobile  
21 industry, the Secretary of Transportation.

22 (4) GREENHOUSE GAS EMISSIONS.—The term  
23 “greenhouse gas emissions” means the quantity of  
24 greenhouse gases emitted by a source during a pe-  
25 riod, measured in tons of greenhouse gases.

1 (5) GREENHOUSE GAS EMISSION REDUCTION.—

2 The term “greenhouse gas emission reduction”  
3 means a quantity equal to the difference between—

4 (A) the greenhouse gas emissions of a  
5 source during a period; and

6 (B) the greenhouse gas emissions of the  
7 source during a baseline period of the same du-  
8 ration as determined by registries and entities  
9 defined as owners of emission sources.

10 (6) KYOTO PROTOCOL.—The term “Kyoto pro-  
11 tocol” means the Kyoto Protocol to the United Na-  
12 tions Framework Convention on Climate Change (in-  
13 cluding the Montreal Protocol to the Convention on  
14 Substances that Deplete the Ozone Layer).

15 (7) PANEL.—The term “panel” means the im-  
16 plementing panel established by section 202(a).

17 (8) REGISTRANT.—The term “registrant”  
18 means a private person that operates a database re-  
19 cording quantified and verified greenhouse gas emis-  
20 sions and emissions reductions of sources owned by  
21 other entities.

22 (9) SOURCE.—The term “source” means a  
23 source of greenhouse gas emissions.

○